

**Appeal No. 2023-1922**

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**UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT**

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BEARBOX LLC, AUSTIN STORMS,

*Plaintiffs - Appellants,*

v.

LANCIUM LLC, MICHAEL T. MCNAMARA, RAYMOND E. CLINE, JR.,

*Defendants - Appellees.*

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Appeal from the United States District Court for the District of Delaware in  
Case No. 1:21-cv-00534, Judge Gregory B. Williams

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**MOTION OF PLAINTIFFS-APPELLANTS FOR A 35-DAY EXTENSION  
OF TIME TO FILE THE PRINCIPAL BRIEF  
FOR PLAINTIFFS-APPELLANTS**

Benjamin T. Horton  
John R. Labbe  
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*Counsel for Plaintiffs-Appellants  
BearBox LLC and Austin Storms*

June 30, 2023

Pursuant to Federal Rule of Appellate Procedure 26(b) and Federal Circuit Rule 26(b), Plaintiffs-Appellants BearBox LLC and Austin Storms (collectively, “BearBox”) respectfully move for a 35-day extension of time to file their principal brief. The Plaintiffs-Appellants’ brief is currently due on July 21, 2023. A 35-day extension would extend the due date for the Plaintiffs-Appellants’ brief to August 25, 2023. This is Plaintiffs-Appellants’ first request for an extension of time.

Defendants-Appellees Lancium LLC, Michael T. McNamara, and Raymond E. Cline, Jr. (collectively, “Lancium”) oppose this motion. Counsel for BearBox has conferred with counsel for Lancium, and counsel for Lancium says that Lancium opposes this Motion, although Lancium would not oppose an extension of 14 days.

BearBox does not seek this extension for the purposes of delay, but rather to permit counsel for BearBox adequate time to prepare its brief in view of the demands of other matters, both professional and personal.

The Declaration of Benjamin T. Horton is submitted in further support of this Motion, which includes additional information.

For all of the foregoing reasons, Plaintiffs-Appellants respectfully request that the Court grant its Motion for a 35-day extension of time to file the principal brief for Plaintiffs-Appellants through and including August 25, 2023.

Date: June 30, 2023

Respectfully submitted,

/s/ Benjamin T. Horton  
Benjamin T. Horton  
John R. Labbe  
Raymond R. Ricordati, III  
Chelsea M. Murray  
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*Counsel for Plaintiffs-Appellants  
BearBox LLC and Austin Storms*

**DECLARATION OF BENJAMIN T. HORTON**

1. I am an attorney admitted to the bar of this Court, and I am a partner of the law firm Marshall, Gerstein & Borun LLP. I am counsel in this appeal for Plaintiffs-Appellants BearBox LLC and Austin Storms (collectively, “BearBox”).

2. I have knowledge of the facts set forth herein, and if called upon as a witness, I could testify to them under oath.

3. I make this Declaration in support of the Motion of Plaintiffs-Appellants for a 35-Day Extension of Time to File the Principal Brief for Plaintiffs-Appellants.

4. BearBox seeks the requested 35-day extension of time not for the purpose of delay, but to ensure that my co-counsel and I have sufficient time to fully and thoroughly address the issues in this appeal, while accounting for the demands of other matters, both professional and personal.

5. Counsel for Defendants-Appellees Lancium LLC, Michael T. McNamara, and Raymond E. Cline, Jr. (“Lancium”) have informed us that Lancium will oppose this Motion. Counsel says that Lancium would not oppose a 14-day extension, but opposes a 35-day extension.

6. A 35-day extension of time is warranted here in view of the demands of other matters, both professional and personal.

7. I am scheduled to be on vacation from July 3 through July 7, 2023, over the week of the Independence Day holiday.

8. I am counsel of record in each of the following cases, each of which has deadlines in July for filing answers or motions, exchanging discovery contentions, and/or preparing claim constructions materials: *Keystone Automotive Industries, Inc. v. Repairify, Inc.*, Case No. 23-cv-02689 (N.D. Ill.); *Avus Designs LLC v. DMoose*, Case No. 23-cv-00023 (D. Wy.); *Lexos Media LLC v. CDW*, Case No. 22-cv-00275 (E.D. Tx.); *Visual Creative Artists LLC v. LinkedIn Inc.*, Case No. 23-cv-03172 (N.D. Ill.).

9. My co-counsel for this appeal have similar competing demands, both professional and personal, throughout July and August, including deadlines in other cases, client meetings on other matters, and personal travel.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on June 30, 2023

/s/ Benjamin T. Horton  
Benjamin T. Horton

FORM 9. Certificate of Interest

Form 9 (p. 1)  
March 2023

**UNITED STATES COURT OF APPEALS  
FOR THE FEDERAL CIRCUIT**

**CERTIFICATE OF INTEREST**

**Case Number** 2023-1922

**Short Case Caption** BearBox LLC v. Lancium LLC

**Filing Party/Entity** Plaintiffs-Appellants BearBox LLC and Austin Storms

**Instructions:**

1. Complete each section of the form and select none or N/A if appropriate.
2. Please enter only one item per box; attach additional pages as needed, and check the box to indicate such pages are attached.
3. In answering Sections 2 and 3, be specific as to which represented entities the answers apply; lack of specificity may result in non-compliance.
4. Please do not duplicate entries within Section 5.
5. Counsel must file an amended Certificate of Interest within seven days after any information on this form changes. Fed. Cir. R. 47.4(c).

I certify the following information and any attached sheets are accurate and complete to the best of my knowledge.

Date: 06/30/2023

Signature: /s/ Benjamin T. Horton

Name: Benjamin T. Horton

## FORM 9. Certificate of Interest

Form 9 (p. 2)  
March 2023

<b>1. Represented Entities.</b> Fed. Cir. R. 47.4(a)(1).	<b>2. Real Party in Interest.</b> Fed. Cir. R. 47.4(a)(2).	<b>3. Parent Corporations and Stockholders.</b> Fed. Cir. R. 47.4(a)(3).
Provide the full names of all entities represented by undersigned counsel in this case.	Provide the full names of all real parties in interest for the entities. Do not list the real parties if they are the same as the entities.  <input checked="" type="checkbox"/> None/Not Applicable	Provide the full names of all parent corporations for the entities and all publicly held companies that own 10% or more stock in the entities.  <input checked="" type="checkbox"/> None/Not Applicable
BearBox LLC		
Austin Storms		

☐ Additional pages attached

## FORM 9. Certificate of Interest

Form 9 (p. 3)  
March 2023

**4. Legal Representatives.** List all law firms, partners, and associates that (a) appeared for the entities in the originating court or agency or (b) are expected to appear in this court for the entities. Do not include those who have already entered an appearance in this court. Fed. Cir. R. 47.4(a)(4).

☐ None/Not Applicable

☐ Additional pages attached

Marshall Gerstein &amp; Borun:

John J. Lucas

Ashby &amp; Geddes:

Andrew C. Mayo

**5. Related Cases.** Other than the originating case(s) for this case, are there related or prior cases that meet the criteria under Fed. Cir. R. 47.5(a)?

☐ Yes (file separate notice; see below) ☒ No ☐ N/A (amicus/movant)

If yes, concurrently file a separate Notice of Related Case Information that complies with Fed. Cir. R. 47.5(b). **Please do not duplicate information.** This separate Notice must only be filed with the first Certificate of Interest or, subsequently, if information changes during the pendency of the appeal. Fed. Cir. R. 47.5(b).

**6. Organizational Victims and Bankruptcy Cases.** Provide any information required under Fed. R. App. P. 26.1(b) (organizational victims in criminal cases) and 26.1(c) (bankruptcy case debtors and trustees). Fed. Cir. R. 47.4(a)(6).

☒ None/Not Applicable

☐ Additional pages attached



FORM 19. Certificate of Compliance with Type-Volume Limitations

Form 19  
July 2020

**UNITED STATES COURT OF APPEALS  
FOR THE FEDERAL CIRCUIT**

**CERTIFICATE OF COMPLIANCE WITH TYPE-VOLUME LIMITATIONS**

**Case Number:** 2023-1922

**Short Case Caption:** BearBox LLC v. Lancium LLC

**Instructions:** When computing a word, line, or page count, you may exclude any items listed as exempted under Fed. R. App. P. 5(c), Fed. R. App. P. 21(d), Fed. R. App. P. 27(d)(2), Fed. R. App. P. 32(f), or Fed. Cir. R. 32(b)(2).

The foregoing filing complies with the relevant type-volume limitation of the Federal Rules of Appellate Procedure and Federal Circuit Rules because it meets one of the following:

- ☒ the filing has been prepared using a proportionally-spaced typeface and includes 203 words.
- ☐ the filing has been prepared using a monospaced typeface and includes \_\_\_\_\_ lines of text.
- ☐ the filing contains \_\_\_\_\_ pages / \_\_\_\_\_ words / \_\_\_\_\_ lines of text, which does not exceed the maximum authorized by this court's order (ECF No. \_\_\_\_\_).

Date: 06/30/2023

Signature: /s/ Benjamin T. Horton

Name: Benjamin T. Horton